

Members

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Sen. John Broden
Sen. Timothy Lanane
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Mark Catanzarite
Ken Buck
Tom Bodkin



ANNEXATION STUDY COMMITTEE

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Authority: P.L. 224-2007 (HEA 1478-2007)

MEETING MINUTES¹

Meeting Date: October 24, 2007
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 5

Members Present: Sen. Jeff Drozda, Chairperson; Sen. Greg Walker; Sen. Timothy Lanane; Rep. Nancy Dembowski; Rep. Phil Hinkle; Rep. Milo Smith; Andy Cook; Barbara Krisher; Patti O'Callaghan; Mark Catanzarite; Ken Buck; Tom Bodkin.

Members Absent: Sen. John Broden; Rep. David Niezgodski; Chuck Williams; C. Pete Peterson.

1. Call to Order

After Sen. Drozda called the meeting to order at 10:12 a.m., Committee members introduced themselves to the audience.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

2. Witness testimony

Mike Shaver, Wabash Valley Scientific, Inc., submitted written testimony (Exhibit 1). Mr. Shaver responded to comments made by other witnesses regarding the annexations of Southwest Clay Township, Home Place, Whitestown, and Geist. Mr. Shaver made the following additional points:

- Legislative tax policy artificially inflates property taxes of municipal residents in order to subsidize services to unincorporated areas. After Southwest Clay Township and Home Place are annexed and Geist is incorporated, city property tax rates will be reduced by \$0.01 while unincorporated areas will require a \$0.06 property tax increase to replace the lost subsidies.
- If Hamilton County stopped collecting the county option income tax (COIT) and property taxes from city residents to support services to unincorporated areas, the tax re-allocation would make Fishers' tax rates lower than the rates in the unincorporated areas.
- Eliminating property tax and local option income tax subsidies would alleviate much of the opposition to annexation. Allowing noncontiguous voluntary annexations would alleviate opposition to an even larger proportion of annexations.

In response to a question from Rep. Hinkle, Mr. Shaver said that allowing annexation of noncontiguous territory could result in situations where the annexing municipality would have to provide services to inconveniently located territory. Mr. Shaver said that it may be necessary to limit the distance of the noncontiguous territory from the municipality and said that it could cause some public management problems that would need to be worked out. In response to a question from Sen. Lanane, Mr. Shaver said that the major source of opposition for annexation is property tax escalation, so if the General Assembly reduces taxes, the opposition to annexation may be eliminated.

Sheriff Doug Carter, Hamilton County, made the following comments:

- Hamilton County's growth has undermined the mutual aid concept among law enforcement agencies in the county. Annexation has resulted in some properties being split between jurisdictions, leading to confusion as to which public safety agency is to provide services.
- After territory is annexed, the Hamilton County Sheriff's Department will continue to provide the same level of service to the territory. The Sheriff's Department will maintain personnel levels and will continue to patrol the 140 square miles of the county that lie within municipal boundaries in addition to the 260 square miles of unincorporated area. As an elected officer of the county he will continue to provide the same services to county residents, including serving warrants, body attachments and other services.

Sheriff Carter requested that the Committee consider the public safety component in making its decision.

Bob Thomas, President, Southwest Clay Community Association, made the following comments:

- If involuntary annexations were eliminated, municipalities would have to provide good municipal services to get people to agree to be annexed.

- Incorporation should not require the consent of surrounding municipalities.
- Cities should have the opportunity to grow but do not have the right to grow. Growth is not necessarily good for citizens.
- Cities are not subsidizing sewer and water services for suburban residents. Sewer and water utilities are regulated profit-making businesses. Home Place established a regional sewer district because Carmel refused to extend sewer service to them. Carmel now wants to annex Home Place's regional sewer district because the district has \$10 million in cash and a \$90 million net worth.
- Sewer waivers benefit municipalities and developers. Annexation is delayed, so developers can advertise that the property receives municipal services at county tax rates. When the property is annexed, the municipalities receive tax revenue.
- Municipalities do not "provide" services, the persons paying for the services are the providers. Hamilton County maintains the streets in Southwest Clay Township. Southwest Clay Township pays Carmel for fire service. Carmel receives COIT funds, paid by residents outside of Carmel, to pay for police service.
- Residents from unincorporated areas patronize city businesses which benefits the city economically.
- If the legislature reduces taxes, annexation could become unpalatable because municipalities annex to obtain tax revenue.
- The 1999 changes to the annexation laws tightened the requirements for fiscal plans, but the changes are ineffectual because the fiscal plan is only reviewed if there is a remonstrance.
- Annexation statutes need to state the point in the annexation proceedings at which the municipality cannot amend the fiscal plan any further.

In response to Committee questions, Mr. Thomas discussed how Carmel's counsel subpoenaed the income tax records of the principals of the Southwest Clay Township remonstrance group; Carmel tried to show that the remonstrators were wealthy and opposed annexation in order to avoid paying taxes. The court ordered the records sealed. Mr. Thomas said that his taxes will increase 20% after annexation, but his objection to annexation is not the monetary effect, it is the effect on the quality of life. Carmel is primarily a high density residential area, while Southwest Clay Township has a lot of green space. The residents of Southwest Clay Township already receive services at a commensurate rate and do not want to pay for Carmel's capital projects, such as the construction of the performing arts center.

Committee member Tom Bodkin clarified that sewer utilities are not regulated by the Indiana Regulatory Commission (IURC) and municipal water utilities may not be regulated if the municipality opts out of regulation.

Matt Milam, Concerned Citizens of Home Place, submitted his written testimony (Exhibit 2). He clarified that Home Place has not yet been annexed, because the case is being appealed. He said that Mike Shaver, Wabash Valley Scientific, Inc., is paid by municipalities to do annexations, so stopping annexations affects Mr. Shaver's livelihood. He urged the Committee to think about the rights of property owners in making their

suggestions to pass on to the legislature.

A written statement "Annexation Study Committee Considerations" prepared by Jack Holton was distributed (Exhibit 3).

Ted Moran, founder of Geist United Opposition, made the following comments:

- Since Fishers does not have a corporate tax base, the town is looking to Geist for tax revenue.
- Fishers is engaging in a costly, fruitless enterprise to move the Fishers airport to Madison County. Fishers is currently \$11 million in debt, undertaking a \$30 million bond issue, borrowing an additional \$366,000 for "future growth", and using municipal money to pay for the annexation fight.
- Fishers' 911 calls go to the Hamilton County Sheriff's Department which dispatches the nearest vehicle. In addition to a mutual aid arrangement with Fishers for police service, Geist residents pay for additional private patrols with their homeowner's fees.
- Fall Creek Township provided fire equipment and a fire station to Fishers in return for Fishers' agreement to man the station. Fishers charged Geist residents \$1.2 million for fire service. Fishers later charged Geist residents \$2.2 million for fire service, which resulted in the township having to sell the fire station to Fishers.
- Fishers annexed a series of parcels on one side of Geist by passing four annexation ordinances at the same meeting with no input.

3. Discussion and vote on final report

Sen. Drozda explained that under the legislation establishing the Committee (P.L. 227-2007), only the eight legislator members of the Committee are voting members and that at least five affirmative votes of the legislator members are required to take action. Sen. Drozda discussed the various sections of the draft final report. Sen. Drozda explained that he included findings and recommendations in the draft report based upon the testimony that the Committee has received. Sen. Drozda explained that even if the Committee does not make recommendations or findings, legislation can still be introduced in the 2008 session to address the annexation issues. Sen. Drozda said that he guaranteed that annexation legislation would be introduced in the 2008 session. After Committee discussion, the Committee removed the recommendations included in the draft final report. The Committee made the following amendments to the findings in the draft final report:

"Annexations are very costly to fight and divide a community" was amended to read "Involuntary annexations are very costly to fight and can divide a community".

"Annexation fiscal plans can be misleading and factually incorrect" was amended to read "Some annexation fiscal plans can be misleading and factually incorrect".

"A majority of persons purchasing real estate may not be aware that the real estate is subject to a remonstrance waiver" was amended to read "Persons purchasing real estate may not be aware that the real estate is subject to a remonstrance waiver."

A motion was made and seconded to remove the finding that reads "The Department of

Local Government Finance has the experience to be able to review annexation fiscal plans." The motion failed on a vote of 3-3, so the finding remains in the final report.

The Committee adopted the draft final report as amended, with a vote of 6-0.

4. Adjournment

Sen. Drozda thanked Committee members for their participation and adjourned the meeting at 1:12 p.m.